

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
P.O. Box 9810
Vancouver WA 98668-9810
Phone (360) 397-2375
Form DS1333

NOTICE TO PARTIES OF RECORD

PROJECT NAME: WARMAN CUP

CASE NUMBERS: CUP2010-00008; PSR2010-00029; SEP2010-00041;
CRA2010-00006 & WET2010-00032

The attached decision of the Land Use Hearing Examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

Motion for Reconsideration:

Any party of record to the proceeding before the hearings examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which no fee will be charged;
- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.

Mailed on: **Tuesday, November 9, 2010**

**BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application for conditional use and site plan approval to expand a private recreation facility (a water ski lake) on 35.88 acres zoned AG-20 and R-5 in unincorporated Clark County, Washington.

FINAL ORDER

**Warman CUP
CUP2010-00008, PRS2010-00029,
SEP2010-00041, CRA2010-00006
& WET2010-00032**

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for conditional use permit and site plan approval to expand an existing permitted (CUP 87-46-2023) private recreational facility – a private water ski lake – on an approximately 35.88-acre parcel zoned AG-20 and R-5.

II. Introduction to the Property and Application:

Applicant..... Ron Warman
11601 NE 65th Street
Vancouver, WA 98662

Owner..... MC Marine, LLC
1035 SW Douglas Place
Portland, OR 97205

Contact..... James D. Howsley
Miller Nash, LLP
500 E. Broadway, Suite 400
Vancouver, WA 98660

Property Legal Description: Tax Lot 15 (parcel no. 172556) in the northeast quarter of Section 20, Township 2, Range 3 east of the Willamette Meridian. Street Address: 3620 NE Ingle Road.

Applicable Laws Clark County Code (CCC) 40.200 (General); 40.210.010 (Resource Districts); 40.210.020 (Rural Districts); 40.350.020 (Transportation Concurrence); 40.350.030 (Transportation Standards); 40.385 (Storm water and Erosion Control); 40.450 (Wetlands); 40.500 (Procedures); 40.510.030 (Type III Process); 40.520.030 (Conditional Use); 40.520.040 (Site Plan Review); 40.570 (SEPA); 40.610 and 40.620 (Impact Fees); Title 15 (Fire Code); and Title 14 (Building) and the Clark County Comprehensive Plan.

The 35.88-acre parcel is dominated by a long (north-south running) lake that is used for water skiing, and was approved for such in 1988 by CUP 87-46-2023 (Ex. 20). The property is split zoned AG-20 and R-5, and the uses approved in the 1988 permit

were limited to the lake and water skiing. No accessory structures or uses were approved as part of that permit. Despite the lack of approval for accessory structures, the owner constructed several buildings over the years, all of which were accessory to the underlying water ski facility. In particular, the applicant constructed two storage buildings, a boathouse, play area, showers & locker rooms, hot tub, seating areas, and a fueling station that were not part of the original conditional use permit. When this came to light, the owner initiated this permit application to obtain after the fact approval for these accessory structures and uses. Additionally, the applicant proposes a binding site plan to allow use of a strip of land leased from the property owner to the west to satisfy the County's setback requirement. An additional complication is the presence of extensive wetlands on the southern portion of the property, as well as on adjacent properties south, east and west of the site. Because the buildings constructed on the site and for which approval is now sought impacted a wetland buffer, a wetland permit with mitigation is now required (WET2010-00032).

This property is located on the southwest side of NE Ingle Road in the rural area, outside any recognized urban growth area, within the service territory of Clark Public Utilities (CPU), the territory of the Proebstel Neighborhood Association, Fire Service District 5, and the Rural 1 Transportation Impact Fee Subarea. Adjacent properties to the south, east and west are similarly zoned (AG-20). Property to the north is subject to City of Camas residential (R-10) zoning. All surrounding properties are developed with single-family dwellings in association with small-scale agriculture. The application includes a narrative (Ex. 1, tab 5), full sized development plans (Ex. 6), a stormwater design report, plan and a soil analysis (Ex. 5, tabs 10, 11 & 12), documentation associated with the Critical Aquifer Recharge Area (Ex. 5, tab 20), a traffic study (Ex. 5, tab 15), a wetlands report (Ex. 5, tab 21) an archaeological predetermination (Ex. 5, tab 22), utility and health department review letters (Ex. 5, tab 17) notes from a December 10, 2010 preapplication conference (Ex. 5, tab 3) and a SEPA checklist (Ex. 5, tab 16).

III. Summary of the Local Proceeding and the Record:

A preapplication conference for this subdivision was requested on March 15, 2010 (Ex. 5, tab 3). An application was submitted on August 3, 2010 (Exs. 5 & 6) and was deemed fully complete on August 24, 2010 (Ex. 7). From this sequence, this development is deemed vested as of March 15, 2010. Notice of the Type III application and an October 28, 2010 public hearing on the application was mailed to property owners within 500 feet and the Proebstel Neighborhood Association on September 7, 2010 (Exs. 8 & 9). Notice of the proposal and October 28th hearing were published in The Columbian (Ex. 15) and posted on and near the site on October 13, 2010 (Ex. 13). The County received three comments and no appeals on the SEPA Determination by the submission deadline of October 27, 2010. Comments were received from the Washington Department of Archaeology and Historic Preservation (Ex. 10), the SW Clean Air Agency (Ex. 11), and the Washington Department of Ecology (Ex. 12). These letters did not raise unique issues and are addressed below. Staff issued a comprehensive report on the project on October 13, 2010 (Ex. 17) recommending approval with conditions.

At the commencement of the October 28th hearing, the Hearings Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflict of interest. No one objected to the proceeding, notice or procedure. No one raised any

procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Richard Daviau, County planning staff on the project, Brad Hazen, engineering staff, and George Fornes, County wetland biologist, provided verbal summaries of the project, the staff report and the various agency and departmental comments already in the record. James Howsley, attorney for the applicant, described the project, explained details and responded to questions. No one else requested an opportunity to testify and no one requested a continuance or that the record be left open. However, due to a 2-day delay in newspaper publication of notice, the Examiner held open the record an additional two days until November 1, 2010, to allow a full 14 days for comment. No additional written comments were received on the proposal following the October 28th hearing. The Examiner closed the record and took the matter under consideration on November 1, 2010.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The Examiner adopts the following findings related to issues and criteria that were addressed in the staff report:

LAND USE:

Finding 1 - Conditional Use: The principal conditional use permit approval criterion is CCC 40.520.030(E)(2) which requires that the establishment, maintenance or operation of a conditional use cannot be significantly detrimental to the health, safety or general welfare of persons residing or working in the neighborhood or detrimental to the general welfare of the county. The applicant has added two storage buildings, a boathouse, play area, showers & locker rooms, hot tub, seating areas, and a fueling station to the existing conditional use. The improvements that are part of this application do not change the nature of the approved CUP; a private water ski recreation facility with limited tournaments and lessons, and all are accessory (secondary) to this principal use. These improvements provide additional support for the water skiing activity. With conditions of approval, the Examiner finds that the expansion of the existing CUP as proposed in this permit application will not be detrimental or significantly injurious to persons or property, improvements, the neighborhood, or to the general welfare of the county. As such, the CUP criterion is met.

Finding 2 - Setbacks: The two storage buildings and a boat house were placed along the west property line within the 50-foot side setback required in the AG-20 zone. See CCC Table 40.210.010-3 for setback requirements. The applicant was unable to secure a boundary line adjustment from the adjacent property owner, but proposes a 99 year lease with certain provisions to ensure continued compliance with setback standards. The proposed lease agreement was submitted with the application (Ex. 5, tab 19). The Clark County Prosecuting Attorney's Office reviewed the lease and concluded that it could be used to meet the County's setback requirement so long as it is part of a binding site plan (Ex. 14). This additional tract

conveys sufficient ownership to the applicant for Clark County to use the tract for determining compliance with setbacks. The leased area can be added to Warman's property for purposes of measuring and determining compliance with the setback standards. The Examiner agrees that the 99-year lease incorporated as part of a binding site plan satisfies the setback requirements. A recorded copy of the lease agreement shall be submitted prior to final site plan review. See Condition A-2.

Finding 3 - Binding Site Plan: The applicant proposes to lease an adjacent strip of land on the western property line from the abutting property owner as a means of complying with setbacks. In accordance with RCW 58.17.040(4), the lease of property classified for industrial or commercial use is exempt from state platting laws when the county has approved a binding site plan for the use of the land in accordance with local regulations. CCC 40.520.040(B) provides for approval of a binding site plan for the purpose of dividing commercially or industrially zoned property for sale or lease. In addition to the requirements of a standard site plan, a binding site plan shall contain inscriptions setting forth appropriate conditions for the use of the land, and provisions for making any development conform to the site plan. County procedure for recording a binding site plan involves the recording of a covenant running with the land that requires any use of the property to conform to the site plan. The covenant must clearly indicate that the lease area will solely be used for the purpose of maintaining setbacks. A survey and copy of the site plan are recorded with the covenant. See Condition A-3.

Finding 4 – Landscaping: Landscape screening is required along the west side of the two storage buildings to ensure the CUP does not create a negative impact to the adjacent property. The final site plan/landscape plan shall show an L3 standard landscaped strip in this area, and existing vegetation can be used to create an adequate screen. See Condition A-4.

Finding 5 – Lighting: The applicant shall verify that lighting from the development does not cast significant light or glare off-site onto adjacent properties or public roadways. See Condition E-1.

ARCHEOLOGY:

Finding 1: The proposal is located within a high probability area for containing cultural resources, and the Washington State Department of Archaeology and Historic Preservation (DAHP) completed an archaeological review (Ex. 5, tab 22). There is a precontact archaeological site on the parcel, but the buildings were not built within this area. No further work is needed for the proposed CUP. There is also a building envelope depicted on the site plan along the south side of NE Ingle Road that is within the boundary of the archaeological site. Further review is required before the applicant performs any development activities in this part of the property (Ex. 10).

WETLANDS:

Finding 1: Wetlands exist in the southern part of the property and on adjacent property south, west and east of the site. Construction on the site exceeded that which was permitted under the original permit, which authorized construction of the lake and some amenities. The excess construction resulted in indirect impacts to the off-site wetlands to the west. The applicant submitted a Preliminary Wetland Mitigation Plan prepared by the Resource Company, Inc. (Ex. 5, tab 21). Staff

concluded that the report accurately showed the locations of wetlands on and adjacent to the site. Staff also concurred with the Category I designation of those wetlands, which is based on the presence of Bradshaw's lomatium (*Lomatium bradshawii*) – a listed state and federal endangered species. Staff also concurred with the report's 120-foot buffers; although, portions of the buffer are considered functionally isolated by the permitted development on the site. See CCC 40.450.030(E)(4)(b)(1) and Table 40.450.030-3.

Finding 2: The Preliminary Wetland Plan identifies areas where the excess construction resulted in reduction of wetland buffers in excess of the maximum reduction allowed under CCC 40.450.040(C)(2), resulting in 10,002 sf of indirect impact. See 40.450.040(D)(5). The Bradshaw's lomatium is located to the south of the water ski lake, approximately ½ mile away from the area of excess construction. Staff concluded that the excess construction did not likely impact the endangered plant. The applicant proposes to mitigate for this indirect impact through preservation of an existing wetland as allowed by CCC 40.450.030(D)(4)(b) and Table 40.450.040-2. The applicant proposes to preserve 3.49 acres, which represents a ratio of 15:1. This proposal does not meet the prescribed ratio of 40:1; however, the County has the authority to reduce wetland mitigation ratios under certain circumstances, e.g., "when documentation by a qualified wetland specialist demonstrates that the proposed actions for compensation will provide functions and values that are significantly greater than the wetland being affected." See Table 40.450.040-2. The mitigation plan asserts that this is the case, and staff concurred, recommending approval of the reduced mitigation ratio. Staff analyzed the project using the June 2010 Draft protocol "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington" (Washington State Department of Ecology, Publication no. 10-06-011). On this basis, staff's favorable recommendation and the lack of any dissenting testimony or objection, the Examiner finds that the proposed mitigation provides higher functions and values than those that were impacted, and the project qualifies for a reduced mitigation ratio.

Finding 3: The excess construction resulted in indirect impacts to a Category I wetland due to loss of buffer function from reductions beyond the maximum reduction allowed. See CCC 40.450.040(D)(5)(b). Under CCC 40.450.040(D)(1)(a)(1), applicants shall "avoid impacts to wetlands unless the responsible official finds that for Category I wetlands, avoiding all impact is not in the public interest or will deny all reasonable economic use of the site. In this case, because the buildings are already constructed, compliance with this requirement would necessitate the removal of the excess construction, i.e., the buildings. The applicant's lawyer submitted a memo expressing the opinion that removal of these already-constructed buildings was not in the public interest:

The public does not have an interest in seeing these structures razed as it would result in less property tax value coming to the county as a result of lessened value, the site would still be impacted with impervious surfaces and there is a better mechanism to preserve the public's interest in protection of the Bradshaw's Lomatium.

The applicant's property tax argument is unconvincing, since it would justify virtually all illegal construction in wetlands, and clearly the public interest calls for compliance with wetland fill laws and preservation of wetlands. More compelling is the argument

that, removal of the buildings would not bring back the lost wetlands, and more effective permanent wetland protections and mitigation are possible here. For these reasons, the Examiner finds that the proposed mitigation plan meets the requirements of the Wetland Protection Chapter.

STORMWATER:

Finding 1 - Stormwater Applicability: CCC Chapter 40.385 applies to all new development, redevelopment, and drainage projects consistent with the Stormwater Management Manual for Western Washington (SMMWW) as modified by CCC chapter 40.385 and the county's Stormwater Manual. This project adds more than 2,000 sf of new impervious surface and is less than 5% of the parcel's area; therefore, the applicant shall comply with stormwater Minimum Requirements 1 through 5 for this project.

Finding 2 – Stormwater Proposal: The applicant submitted a stormwater report addressing Minimum Requirements 1-5 prepared by Norm Harker, P.E., dated July 26, 2010 (Ex. 5, tabs 11 & 12). Engineering staff reviewed the applicant's report and concluded that the plan complies with the county's stormwater requirements. Because this work has already been completed and the work performed complies with the submitted plan, no other stormwater conditions are warranted. The applicant shall submit a stormwater plan for any future improvements that would trigger stormwater control requirements.

CRITICAL AQUIFER RECHARGE AREA (CARA)

Finding 1 – Applicability: The CARA section of the Code applies to all critical aquifer recharge areas as defined in CCC 40.410.010(C). Based on county GIS mapping, this project falls entirely in the area of a Category II; therefore, it is subject to and shall comply with the CARA ordinance. The intent is to protect groundwater that may be used in the future for drinking water or business purposes.

Finding 2 – The Applicant's Proposal: The applicant indicates in the preliminary stormwater report that there is a fuel tank on site that is used to fuel the boats in the water. The applicant states the users will follow the requirements of the "County Stormwater Pollution Control Manual" which states any spills will be contained and removed by use of absorbent pads that will be stocked by the fueling areas. Due to the fact that the fueling activity occurs in a Category II CARA, the applicant is required to comply the provisions of CARA ordinance. The applicant shall prepare and submit a report in accordance with CCC 40.410.030 prior to final site plan approval. See Condition A-1.

FIRE PROTECTION:

Finding 1 - Fire Marshall Review: The site is in Clark County Fire District 5, and the application was reviewed by the Fire Marshal's Office, which provided comments and specific recommended conditions. The applicant shall comply with those conditions and should contact the Fire Marshal's Office if there is difficulty meeting these conditions or if additional information is required. Building construction occurring subsequent to this application shall comply with the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction during permit review and approval.

Finding 2 - Fire Flow/Hydrants: Fire flow in the amount of 1,500 gallons per minute supplied at 20 PSI for 2 hours duration is required for this application. Prior to obtaining building permits, the applicant shall submit proof from the water purveyor indicating that the required fire flow is available at the site. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to the commencement of combustible building construction. Fire flow is based on a 2,225 sf type V-B constructed building. Fire hydrants are required for this application, but either the indicated number or the spacing of the fire hydrants is inadequate. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 300 feet that are no further than 300 feet from the exterior of any building as measured along approved fire apparatus access roads. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local district fire chief shall review and approve the exact locations of fire hydrants. See Conditions B-1 & B-2.

Finding 3 - Fire Access/ Marinas Facilities: Fire apparatus access is required for this application, and the Fire Marshal reports that the roadways and maneuvering areas as indicated in the application will be adequate for this purpose. Fire apparatus turnarounds are required for this application. Marinas with facilities for mooring or servicing five or more vessels and marine motor fuel-dispensing facilities shall be equipped with fire protection equipment in accordance with Sections 4504.2 through 4504.6 of the 2009 IFC. See Condition B-3.

IMPACT FEES:

Finding 1: Traffic Impact Fees (TIF) apply to the buildings approved by this permit, which is located within the Rural 1 Transportation Subarea. County staff estimated that this use most closely corresponded to the racquet/tennis club category, for which the required TIF for a 5,975 sf building is \$23,870.38. See Condition C-2 & IFC2010-00032. At the hearing, the applicant objected and argued that the storage buildings are not similar in nature or trip generation potential to a racquet/tennis club and asked for the opportunity to demonstrate a more appropriate trip generation attributable to these buildings. The Examiner agrees that the racquet/tennis club category may not be the best predictor of trip generation for these buildings for purposes of calculating the appropriate TIF, and therefore allows the applicant to submit an independent fee calculation for purposes of deriving a more suitable TIF - five examples are required. If the application is submitted more than three years following the site plan approval, the Impact Fees will be recalculated according to the then current ordinance. The applicant should contact Tahanni Essig at 397-6118, Ext. 5790 for further questions regarding the TIF calculation.

BUILDING:

Finding 1: The building safety program has reviewed the submitted plans and has review comments. All structures, buildings, and facilities shall be permitted and approved by a building safety program. Approval by land use or engineering division does not constitute approval by building safety program. See Condition C-1.

SEPA DETERMINATION

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this

proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on October 13, 2010 (Ex. 17). Three timely comments and no appeals were received by the comment and appeal deadline of October 27, 2010 (Exs. 10, 11 & 12). These comments are adequately addressed in the foregoing findings and the conditions that follow, and therefore do not warrant separate response. The SEPA determination is final.

V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this conditional use permit, wetland permit and binding site plan are approved in general conformance with the applicant's proposal, the preliminary site plan and related plans (Exs. 5 & 6). These approvals are granted subject to the requirements that the developer, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

A	Final Construction/Site Plan Review
	Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction/Site Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 CARA** – Prior to final site plan approval, the developer shall submit a report that fulfills the requirements of the CARA ordinance, CCC 40.410.030 and addresses all issues related to the onsite fuel tank and the fueling of the boats in the water.
- A-2** A copy of the final executed and recorded lease agreement shall be submitted prior to final site plan review. See Land Use Finding 2.
- A-3** A recorded copy of a binding site plan covenant running with the land. A survey and copy of the site plan are recorded with the covenant. See Land Use Finding 3.
- A-4** **Landscaping.** The final site plan/landscape plan shall show an L3 standard (existing vegetation can be used) along the west side of the two storage buildings.
- A-5** **Wetlands.** The developer shall submit and obtain County approval of a final site plan, consistent with the preliminary site plan that was submitted with this application and approved by this permit and which implements the following additional requirements:
 - a. Conservation Covenant** – Within 30 days of the date of this decision, a draft conservation covenant that runs with the land and requires that the wetlands and buffers remain in their natural state shall be submitted to the Environmental Services Department for approval. The covenant shall identify and protect all remaining on-site wetland areas. Within the remaining on-site wetland areas, the covenant shall identify the preservation area and grant the county clear

regulatory and enforcement authority to protect existing wetland and wetland buffer functions of the preservation area with standards that exceed the protection standards of the wetland protection ordinance. See CCC 40.450.040(D)(4)(b)(3). Within 14 calendar days of receipt of Environmental Services approval to record, the developer shall obtain signature from the County Prosecuting Attorney, record the approved covenant with the County Auditor and submit a copy of the recorded covenant to the Environmental Services Department.

- b. *Permanent Physical Demarcation* – Within 30 days of the date of this decision, permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedge row, fencing, or other prominent physical marking approved by the responsible official. The berm on the south side of the water ski lake may serve as such demarcation. In addition, small signs shall be posted at an interval approved by the Environmental Services Director, and perpetually maintained at locations along the outer perimeter of the wetland buffer approved by the responsible official worded substantially as follows:

Wetland and Buffer
Please retain in a natural state

B	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

- B-1** Either the indicated number or the spacing of the fire hydrants is inadequate. The developer shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 300 feet and such that no portion of the building exterior is in excess of 300 feet from a fire hydrant as measured along approved fire apparatus access roads.
- B-2** Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The developer shall obtain review and approval from the local district fire chief for the exact locations of fire hydrants.
- B-3** Marinas with facilities for mooring or servicing of five or more vessels, and marine motor fuel-dispensing facilities shall be equipped with fire protection equipment in accordance with Sections 4504.2 through 4504.6 of the 2009 IFC.

C	Building Permits Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

- C-1** **Building and Fire Safety.** Building and Fire, Life, and Safety requirements must be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is

the responsibility of the owner, agent, tenant, or developer to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. This permit and site plan approval does not obviate the need to comply with all applicable building and fire code requirements.

- C-2 Traffic Impact Fee:** A TIF of \$23,870.38 is required for the 5,975 sf of building area using the racquet/tennis club category in the Rural 1 Transportation Subarea. See IFC2010-00032. The developer may submit an independent TIF calculation for purposes of deriving a more suitable TIF - five examples are required.

D	Development Review Timelines & Advisory Information
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- D-1 DOE Stormwater Permit** - A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:


- a. The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND
- b. There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the 1-acre threshold. This applies even if the developer is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

E	Post Development Requirements Review & Approval Authority: As specified below
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- E-1 Outdoor Lighting** - Exterior lighting shall be located, shielded, and directed to prevent significant off site glare, in accordance with CCC 40.340.010(A)(7) and RCW 47.36.180.
- E-2 Archeology** - Further review is required before any development action occurs within the building envelope depicted on the site plan along the south side of NE Ingle Road.

Date of Decision: November 9, 2010.


By: _____
Daniel Kearns
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There

may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

Notice of Appeal Rights

This is the County's final decision on this application. Anyone with standing may appeal any aspect of the Hearings Examiner's decision, except the SEPA determination, to Clark County Superior Court pursuant to the Washington Land Use Petition Act, RCW chapter 36.70C.

ATTACHMENT B STAFF REPORT & RECOMMENDATION

(Engineering Review)
Form DS1301



Project Name: Warman Lake

Case Number: CUP2010-00008, PSR2010-00029, SEP2010-00041,
WET 2010-00032, CRA 2010-00006

Staff Engineer: Brad Hazen

Team Leader: Ali Safayi, P.E.

Report Issue Date: September 29, 2010

Vesting Date: March 15, 2010

DECISION **Approve**

Engineering Team Leader Initials: _____ **Date Signed:** 9/29/2010

Major Issues, Analysis & Conclusions

TRANSPORTATION:

There are no transportation related issues associated with this project.

STORMWATER:

Finding #1 - Stormwater Applicability

The provisions of Clark County Code, Chapter 40.385, shall apply to all new development, redevelopment, and drainage projects consistent with the Stormwater Management Manual for Western Washington (SMMWW) as modified by CCC 40.385 and the county's Stormwater Manual. The project adds more than 2,000 square feet or more of new impervious surface and less than five percent of the parcel's area, therefore the applicant is required to comply with stormwater Minimum Requirements 1 through 5 for this project.

Finding #2 – Stormwater Proposal

The applicant has submitted a stormwater report that addresses Minimum Requirements 1-5 prepared by Norm Harker, P.E., dated July 26, 2010. Engineering staff has reviewed the applicant's report and finds the plan complies with the county code. Due to the fact that this work has already been completed and the work done complies with the submitted plan, no other stormwater conditions are warranted. The applicant will be required to submit stormwater plan for any future improvements that would trigger stormwater control requirements.

CRITICAL AQUIFER RECHARGE AREA (CARA)

Finding #1 – Applicability

The CARA code section applies to all critical aquifer recharge areas as defined in Section 40.410.010(C). Based on the county GIS mapping, the proposed project falls entirely in the area of a Category II, therefore, it shall be subject to provisions of the CARA ordinance. The intent is to protect groundwater that may be used in the future for drinking water or business purposes.

Finding #2 – The Applicant's Proposal

The applicant indicates in the preliminary stormwater report that there is a fuel tank on site that is utilized to fuel the boats in the water. The applicant states the users will follow the requirements of the "County Stormwater Pollution Control Manual" which states any spills will be contained and removed by use of absorbent pads that will be stocked by the fueling areas. Due to the fact that the fueling activity occurs in a Category II CARA, the applicant is required to comply the provisions of CARA ordinance. The applicant shall prepare and submit a report in accordance with section CCC 40.410.030 prior to final site plan approval. **(See Condition # A-1)**

Conditions of Approval

A Final Construction/Site Plan Review

Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction/Site Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 CARA** – Prior to final site plan approval, the applicant shall submit a report in compliance with the CARA ordinance, section CCC 40.410.030, addressing all issues related to the onsite fuel tank and the fueling of the boats in the water. (See CARA Finding 2)



WARMAN CUP
CUP2010-00008; PSR2010-00029;
SEP2010-00041; WET2010-00032;
CRA2010-00006
Hearing Date: 10-28/10

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PLANNER
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